



July 29, 1999

Mr. George C. Kraehe
Willette, Guerra & Trevino, L.L.P.
801 Nolana, Suite 320-A
McAllen, Texas 78504

OR99-2135

Dear Mr. Kraehe:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126165.

You represent the Lower Rio Grande Valley Development Council (the "council"), which received a request for various categories of information, including a job posting, application forms and an applicant summary data sheet. You contend that the requested records are protected from disclosure under section 552.103(a) of the Government Code. To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *University of Texas Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin, 1997, no pet.), *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990).

You have shown that litigation is pending and that the records at issue are related to that litigation. However, some of the records submitted may not be withheld from the requestor. The opposing party in the anticipated litigation has seen some of the documents at issue, including his own application and the job posting. Once information has been obtained by all parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). You may withhold the other records at issue that the opposing party to the anticipated litigation has not seen or had access to. We note that the applicability of section 552.103(a) ends once the litigation concludes. Attorney General Opinion MW-575 (1982), Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 126165

Encl. Submitted documents

cc: Mr. Dionel De La Cruz
27 Rio Fence Road
Rio Grande City, Texas 78582
(w/o enclosures)